UNITED STATES DEPARTMENT OF AGRICULTURE BEFORE THE SECRETARY OF AGRICULTURE

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) AWA Docket No: 06-0014	1
In re:)	
)	
Wayne Pies,) DECISION AND	
) ORDER BY REASON O	F
Respondent.) ADMISSION OF FACTS	5
_)	
)	

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. ∋ 2131 et seq.) (the AAct≅), by an order to show cause filed by the Complainant, the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the Respondent was found to have violated a State or local law or regulation pertaining to animal cruelty and is unfit to be licensed.

On May 10, 2006, the Hearing Clerk sent to respondent Wayne Pies, by certified mail, return receipt requested, copies of the order to show cause. Respondent was informed in the accompanying letter of service that an answer to the order to show cause should be filed pursuant to the Rules of Practice and that a failure to answer any allegation in the order to show cause would constitute an admission of that allegation. Respondent received copies of the order to show cause on May 17, 2006. Respondent failed to file an answer within the time prescribed in the Rules of Practice, thus the material facts alleged in the order to show cause, which are admitted by Respondent=s default, are adopted and set forth herein as Findings of Fact. This Decision and Order, therefore, is issued pursuant to section 1.139 of the Rule of Practice, 7 C.F.R. \ni 1.139.

 $^{^1}$ \underline{See} Domestic Return Receipt for Article Number 7003 1010 0003 0642 5019 and 70033110 0003 7112 2847.

The Animal Welfare Act and the regulations issued thereunder authorize the Secretary of Agriculture, among other things, to terminate an Animal Welfare Act license when a licensee is unfit to hold such license.² The Act and regulations also authorize the disqualification of any person whose license has been terminated, from applying for or obtaining an Animal Welfare Act license.³

One of the Animal Welfare Act=s primary purposes is to Ainsure that animals intended . . . for exhibition purposes . . . are provided humane care and treatment \cong ⁴

The Complainant has determined, and I find, that Respondent is unfit to be licensed under the Animal Welfare Act and that his exhibitor=s license should be terminated. On October 4, 2005, Respondent was found guilty of mistreating animals, in violation of section 47-1-40 of the South Carolina Code of Laws, as a result of his failure to provide adequate housing, nutrition and water to two of his animals. Respondent=s mistreatment of animals is contrary to one of the Act=s hallmarks: insuring that animals are provided humane care and treatment.

The Complainant also recommends that I disqualify Respondent for a two year period from applying for or obtaining an Animal Welfare Act license. The Complainant believes that this period of disqualification is the necessary and appropriate given the purposes of the Act, the gravity of Respondent=s conduct and the number of animals effected by such conduct. I find, based on

 $^{^{2}}$ 7 U.S.C. $\ni \ni$ 2133, 2151; 9 C.F.R. \ni 2.12; see also 9 C.F.R. \ni 2.11.

³7 U.S.C. ⇒ 2151; 9 C.F.R. ⇒ 2.11(b); *see In re Mary Bradshaw*, 50 Agric. Dec. 499, 507 (1991) (holding that the Secretary=s Apower to require and issue licenses under the Animal Welfare Act includes the power to deny a license, to suspend or revoke a license, to disqualify a person from becoming licensed, and to withdraw a license.≅).

⁴7 U.S.C. ∋ 2131.

section 2151 of the Act, sections 2.11 and 2.12 of the regulations, and on the record herein, and the recommendations of the Complainant, that a disqualification of two (2) years is warranted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- Respondent Wayne Pies is an individual whose mailing address is 2604 Bay Drive,
 Bradenton, Florida 34208.
- 2. Respondent Pies, at all material times mentioned herein, was operating as an exhibitor as defined in the Act and the Regulations.
- 3. Respondent Pies, at all material times mentioned herein, has held Animal Welfare
 Act license number 58-C-0022, issued to AWayne Pies.≅
 - 4. The Secretary has jurisdiction in this matter.
- 5. On October 4, 2005, Respondent was found guilty of Ill Treatment of Animals, in violation of section 47-1-40 of the South Carolina Code of Laws, by the Florence County Magistrates Court. S.C. Code Ann. \ni 47-1-40. Specifically, respondent was found to have left one miniature male horse and one large male hog in a trailer without sufficient food and water for no fewer than two days.
- 6. On October 4, 2005, after being found guilty of said offense, respondent paid a fine of \$260.00 to the Florence County Magistrates Court.
- 7. Respondent Wayne Pie has been found to have violated a State or local law or regulation pertaining to animal cruelty and, for the foregoing reasons, the Administrator of the Animal and Plant Health Inspection Service has determined that Respondent is unfit to be licensed. (9 C.F.R. ⇒ 2.11, 2.12). Accordingly, Animal Welfare Act license number 58-C-0022, issued to AWayne Pies≅ should be terminated, pursuant section 2.12 of the regulations. (9 C.F.R. ⇒ 2.12)

ORDER

- 1. Animal Welfare Act license number 58-C-0022 is hereby terminated.
- 2. Respondent may apply for a license two years from the day this Order.

The provisions of this order shall become effective on the first day after this decision becomes final. This decision becomes final without further proceedings 35 days after service as provided in sections 1.142 and 1.145 of the Rules of Practice. Copies of this decision shall be served upon the parties.

Done a	t Washington,	D.C.
this	day of	2006
	W. Palmer	udaa